



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket ID-OSHA-2007-0066]

RIN 1218-AC86

Cranes and Derricks in Construction: Operator Certification

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing on OSHA's proposed extension of the crane-operator certification deadline and the separate existing employer duty to ensure that their crane operators are competent. The Agency proposed three-year extensions for both, from November 10, 2014, to November 10, 2017.

DATES: Informal public hearing: The informal public hearing will be held on Monday, May 19, 2014, at 9:30 a.m. in the auditorium of the U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Notice of intention to appear: Each person who wishes to testify at the hearing must submit a notice of intention to appear by April 25, 2014. Each person who files a notice of intention to appear may submit a written copy of additional comments to the record before or during the hearing for inclusion in the hearing record. Organizations may submit a single notice of intention to appear regarding multiple members of that organization, but the notice must list the name, occupational title, and position of each

individual who plans to testify. In addition, all notices must also include the following information:

- (1) An e-mail address or other contact information for receiving additional information about the hearing;
- (2) Name of the establishment or organization, if any, that each individual represents;
- (3) A brief summary of any documentary evidence each individual plans to present.

ADDRESSES: Submit a notice of intention to appear and written testimony by any of the following methods:

Electronically: Submit a notice of intention to appear and written testimony electronically at <http://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for submitting comments.

Fax: If your written submission does not exceed 10 pages, including attachments, you may fax it to the OSHA Docket Office at (202) 693-1648.

Regular mail, express delivery, hand delivery, or messenger (courier) service: Submit your materials to the OSHA Docket Office, Docket No. OSHA-2007-0066, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-2350, (TTY number (877) 889-5627). The OSHA Docket Office accepts deliveries (express mail, hand delivery, and messenger (courier) service during its normal hours of operation, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and docket number for this rulemaking (i.e., OSHA Docket No. OSHA-2007-0066). OSHA will place all submissions, including any personal information, in the public docket without change and make them available online at <http://www.regulations.gov>. Therefore, OSHA cautions

you about submitting personal information, such as Social Security numbers and birthdates. Because of security-related procedures, the use of regular mail may cause a significant delay in receipt of your submissions. For information about security-related procedures for submitting materials by express delivery, hand delivery, or messenger (courier) service, contact the OSHA Docket Office.

If you submit scientific or technical studies or other results of scientific research, OSHA requests (but is not requiring) that you also provide the following information when it is available: (1) Identification of the funding source(s) and sponsoring organization(s) of the research; (2) the extent to which a potentially affected party reviewed the research findings prior to publication or submission to the docket, and identification of any such parties; and (3) the type of financial relationships (e.g., consulting agreements, expert witness support, or research funding), if any, between investigators who conducted the research and any organization(s) or entities having an interest in the rulemaking. If you are submitting comments or testimony on the Agency's scientific and technical analyses, OSHA requests that you disclose: (1) The type of financial relationships you may have, if any, with any organization(s) or entities having an interest in the rulemaking; and (2) the extent to which an interested party reviewed your comments or testimony prior to its submission. Disclosure of such information promotes transparency and scientific integrity of data and technical information submitted to the record.

This request is consistent with Executive Order 13563, issued on January 18, 2011, which instructs agencies to ensure the objectivity of any scientific and technological information used to support their regulatory actions. OSHA emphasizes

that it will consider all material submitted to the rulemaking record to develop the final rule and supporting analyses.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Mr. Frank Meilinger, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1999; email: Meilinger.Francis2@dol.gov.

Technical inquiries: Mr. Vernon Preston, Directorate of Construction, Room N-3468, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-2020; fax: (202) 693-1689; email: Preston.Vernon@dol.gov.

SUPPLEMENTARY INFORMATION:

On August 9, 2010, OSHA issued a final standard establishing requirements for cranes and derricks used in construction work. The standard requires employers to ensure that crane operators are certified by November 10, 2014. Until that date, employers also have added duties under the standard to ensure that crane operators are trained and competent to operate the crane safely. On February 10, 2014, OSHA issued a Notice of Proposed Rulemaking (NPRM) proposing to extend the deadline for operator certification by three years to November 10, 2017, and to extend the existing employer duties for the same period. The public had 30 days to submit comments on this issue. The comment period closed on March 12, 2014.

In response to the NPRM, OSHA received over 60 comments from the public. Only one comment, from Crane Institute Certification (CIC), requested or implied a

hearing request (OSHA-2007-0066-0495). OSHA spoke with Ms. Deborah Dickinson of CIC to clarify whether the organization was requesting a hearing, and Ms. Dickinson confirmed that it was.

The purpose of a hearing is to gather information not already in the record, and to develop a clear, accurate, and complete record. This hearing will be an informal administrative proceeding rather than an adjudicative one; therefore, the technical rules of evidence will not apply. Conduct of the hearing will conform to 29 CFR 1911.15. In addition, the Assistant Secretary may, on reasonable notice, issue additional or alternative procedures to expedite the proceedings, to provide greater procedural protections to interested persons, or to further any other good cause consistent with applicable law (29 CFR 1911.4).

This hearing will be held to develop the record on the proposed extensions presented in OSHA's February 10, 2014, NPRM. While the Agency recognizes that there are several potentially controversial issues surrounding crane operator certification/qualification, the Agency requests that testimony and questions be focused and related to the proposed time extensions to preserve adequate time for all persons to be heard on the issues in the proposal.

Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, DC 20210, authorized the preparation of this notice. OSHA is issuing this proposed rule under the following authorities: 29 U.S.C. 653 and 655; 40 U.S.C. 3701 et seq.; 5 U.S.C.

553; Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012); and 29 CFR part 1911.

Signed at Washington, DC, on April 9, 2014.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

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